

Appendix E

TERMS AND CONDITIONS RELATING TO PAYMENTS:

A. Payment Terms for Capitated and Performance Based Payments

Payments by DCF under this Contract will consist of: (1) monthly capitation amount for participant families who are eligible and enrolled in the program as described in s. 1.11.4 of RFP #CFB00144 and addenda; (2) performance payments for the attainment of program outcomes as described below; (3) quarterly incentive payments as described below (4) annual incentive payments as described below; and (5) cost reimbursement for expenditures relating to Emergency Assistance payments, Contracted Child Care, Refugee Cash Assistance, and Refugee Services funded by the Office of Refugee Resettlement, Job Access Loans and Trial Employment Match Program (TEMP) wage subsidies and associated payroll taxes and insurance. All Terms and Conditions affecting cost reimbursement under (5) above are contained in Section C. of this Appendix.

The following terms and definitions apply to payments pursuant to Section A of this Appendix. "Claim" means a request for payment for a performance outcome. "Verified claim" means a claim that the W-2 Contractor has evaluated and determined to be supported by documentation establishing that the claim meets the eligibility requirements in Section A.2. of this Appendix. "Approved claim" means a verified claim that the agency has approved in the CARES system. "Pending claim" is a claim approved by the agency but has not been processed by the CARES system (i.e. Prior to 9:00 p.m. CST on the last day calendar day of the month.) "Submitted claim" means an approved claim in the CARES system at 9:00 p.m. on the last calendar day of the month. Claims may be submitted after the last calendar day of the month but will be applied to the next month. "Paid claim" is a submitted claim for which the W-2 Contractor has received a payment. "Denied claim" means a verified claim or a pending claim which DCF has declined payment. "Disallowed claim" means a paid claim that DCF determines after payment to be ineligible. "Withdrawn" claim means a paid claim the W-2 Contractor has withdrawn after payment.

1. Monthly Capitated Payment

After receiving reporting of Contractor expenses (COrE Expenditure Reports), DCF will pay the W-2 Contractor a monthly capitated amount for each participant family that is eligible and enrolled in the W-2 Program. Payments issued will not exceed 50% of the total maximum budgeted amount, for CY2014.

The W-2 Contractor is not required to submit a verified claim to receive a

monthly capitation payment. DCF will automatically generate a report to determine the capitation payment on the second business day of each month. This report will determine the capitation payment amount for the previous month. The capitation payment amount is calculated by multiplying the negotiated capitated rate by the monthly Case Count Total (CCT) determined at 9:00 p.m. on the last calendar day of the month. The CCT includes cases that are in an open W-2 assistance group at any time during the month and cases that have a valid W-2 placement anytime during the month. The calculation for the monthly capitation payment will only include eligible participant families enrolled in the W-2 placement type CMF for a maximum of three (3) consecutive months. Backdated placements will not be considered for capitation payments except for CMC placements. The CMC placement begin date can be backdated to either the date of application or the baby's date of birth, whichever is later. The backdated cases will be included in the payment in the month the placement was entered.

2. Performance Outcome Payments

DCF has defined a set of program outcomes for which it will issue performance payments. After receiving reporting of Contractor expenses (CORA Expenditure Reports), DCF will pay the W-2 Contractor an agreed upon amount for each performance outcome attained as described below. DCF will calculate the performance outcome payment amount based upon the number of approved claims in CARES.

The W-2 Contractor is responsible for capturing valid, accurate information to verify the attainment of each outcome. This information shall be available in the Electronic Case File and verified prior to approval by the W-2 Contractor. W-2 Contractors will complete the appropriate performance outcome data capture screens in CARES for each performance outcome. Only claims approved by 9:00 p.m. CST on the last calendar day of the month via CARES will be considered for payment in the following month. On the second business day of the month, DCF will generate a report on the performance outcome claims based upon the information submitted by the W-2 Contractor in CARES. DCF reserves the right to 100% post payment adjudication of those claims or to review a sample of each claim submission for accuracy and reserves the right to request additional verification or to deny payment for unsubstantiated claims.

a. Job Attainment Performance Outcome

The Job Attainment outcome payment is payable under the following conditions:

- i. The Contractor has verified that the individual has secured unsubsidized employment that complies with all applicable state and federal labor laws;
- ii. The Contractor has verified that within 180 days of the primary employment begin date a single employment lasted at least 31 calendar days from the primary employment begin date or the date of change in employment hours or wages (employment change date);
- iii. The Contractor has verified that either condition a) or b) below is met by hours worked or wages earned from one job or a combination of multiple jobs:
 - a) The Contractor has verified that the total hours worked (hours worked includes paid days off) equals or exceeds 110 hours in the 31 calendar days following the primary employment begin date or the employment change date, or
 - b) The Contractor has verified that the participant has earned at least \$870 in gross, unsubsidized wages in the 31 calendar days following the primary employment begin date or the employment change date.
- iv. The Contractor has verified that the individual who obtained employment met one of the following requirements as of 1 business day prior to the primary employment begin date:
 - a) The individual or the other parent in a two parent household was in an open W-2 placement (excluding CMF), or
 - b) The W-2 Program Request date is at least 1 business day prior to the employment begin date(s).
- v. The Contractor has verified that the Contractor has not received another Job Attainment payment for the individual in the 12 months prior to the primary employment begin date or the employment change date.

b. Long -Term Participant Job Attainment Performance Outcome

Long-term participants are defined as eligible parents already enrolled in W-2 who were carried into the contract on January 1, 2013 and who have used more than 24 months on the state 60-month clock, with six or more months used in 2012. It also includes individuals who have 24 months on the state 60-month clock with six or more months used in 2013.

Contractors may earn a Long-Term Participant Job Attainment payment in addition to a Job Attainment payment for the same individual so long as all requirements are met for both types of payments. Contractors may submit a claim for the Long-Term Participant Job Attainment performance outcome when all of the following requirements are met:

- i. The Contractor has verified that the individual who obtained employment met all the requirements for the Job Attainment performance outcome;

- ii. The Contractor has verified that the Contractor has not received another Long-Term participant payment for the individual; and
- iii. The Contractor has verified that the participant has the following characteristics
 - a) At least 24 months on the 60-month state clock; and
 - b) Six or more months in 2012 or 2013.

c. Partial Job Attainment Performance Outcome

- i. The Contractor has verified that the individual has secured unsubsidized employment that complies with all applicable state and federal labor laws;
- ii. The hours of employment are sufficient to qualify for at least a ½ CSJ (15 hours per week);
- iii. The Contractor has verified that within 180 days of the primary employment begin date a single employment lasted at least 31 calendar days from the primary employment begin date or the date of change in employment hours or wages (employment change date);
- iv. The Contractor has verified that the participant has earned between \$470 and \$869.99 in gross, unsubsidized wages in the 31 calendar days following the primary employment begin date or the employment change date;
- v. The Contractor has verified that the individual who obtained employment met one of the following requirements as of one business day prior to the primary employment begin date:
 - a) The individual or the other parent in a two parent household was in an open W-2 placement (excluding CMF), or
 - b) The W-2 Program Request date is at least one business day prior to the employment begin date(s);
- vi. The Contractor has verified that the Contractor has not received another Partial Job Attainment payment for the individual in the 12 months prior to the primary employment begin date.

d. Job Retention Performance Outcome

Contractors are eligible for job retention payments. Contractors may submit a claim for the Job Retention performance outcome when all of the following requirements are met:

- i. The Contractor has verified that the individual has secured unsubsidized employment that complies with all applicable state and federal labor laws;
- ii. The Contractor has verified that employment lasted at least 93 calendar days with no more than a single interruption of no more 14 calendar days;
- iii. The Contractor has verified that either condition a) or b) below is met by hours worked or wages earned from one job or a combination of

multiple jobs:

- a) The Contractor has verified that the total hours worked equals 330 hours in the 93 calendar days following the first day of employment or the employment change date. All 93 days need not fall within the 180 days following the primary employment begin date however, the first 31 days must fall within the 180 days.
- b) The Contractor has verified that the participant has earned at least \$2610.00 in gross, unsubsidized wages in the 93 calendar days following the first day of employment.
- iv. The Contractor has verified that the individual who obtained employment met one of the following requirements as of one business day prior to the earliest employment begin date:
 - a) The individual or the other parent in a two parent household was in an open W-2 placement (excluding CMF), or.
 - b) The W-2 Program Request date is at least one business day prior to the employment begin date(s).
- v. The Contractor has verified that the Contractor has not received another Job Retention payment for the individual in the 12 months prior to the employment begin or employment change date.

e. SSI/SSDI Attainment Performance Outcome

Contractors may earn performance payments for assisting those W-2 eligible parents interested in pursuing SSI/SSDI and whom the Contractor believes have a reasonable chance of obtaining SSI/SSDI to apply for and obtain SSI/SSDI payments. Contractors may submit a claim for the SSI/SSDI Attainment performance outcome when all of the following requirements are met:

- i. The Contractor has verified that the individual is eligible for SSI or SSDI benefits;
- ii. The Contractor has verified that the family had an open W-2 placement and that the Contractor claiming payment was providing SSI advocacy services to that individual for at least 60 calendar days prior to the date that the individual became eligible for SSI or SSDI. (For January and February 2013, the 60 day service period is not required.)
- iii. The Contractor has verified that the individual's W-2 case has closed as a result of being determined eligible for SSI/SSDI. (Exception: In the case of two parent families the case may stay open because the agency has verified that only one parent became eligible for SSI/SSDI.)

f. Timely Processing of Emergency Assistance (EA) Applications

Contractors will be paid \$75 for every Emergency Assistance application received by the contractor and approved or denied in the Emergency Assistance Tracking System (EATS) within five working days from the application date. Payments may not exceed \$75 times the quantity proposed by the Contractor for 2014 and agreed to between the parties. Day one of the five days is the first working day after the date the application is received.

DCF will issue payments for timely processing of EA applications monthly. Applications dated on or after 01/01/2014 entered in EATS, and processed in the five working days or less timeframe will qualify for an EA performance outcome payment. The W-2 Contractor is not required to submit a verified claim to receive the monthly payment. DCF will automatically generate a report to determine the monthly payment. This report will determine the payment amount for the previous month.

3. Additional Performance Outcome Payments Above the Maximum Number Proposed.

DCF may, in its sole discretion, pay for additional outcomes above the maximum number proposed by the Contractor for the geographical area according to the amount of additional outcomes. No payments for outcomes above the maximum number proposed may be paid until the W-2 Contractor has met the negotiated quantities for every performance outcome category.. The W-2 Contractor may not assume that performance payments above the proposed quantities will be approved or approved at the existing prices. The prices and quantities above the maximum budget will be negotiated between the Parties.

4. Incentive Outcome Payments Notwithstanding the maximum budget for the geographical area(s) served by the Contractor, DCF will pay contractors for the following achievements.

a) Quarterly Work Participation Rate (WPR) Incentive Payment

i. 50% All Families Rate

DCF is required to meet the Federal Temporary Assistance for Needy Families (TANF) work participation rate on an annual basis. W-2 Contractors who meet the quarterly Federal All Families Work Participation Rate of 50% for the geographical area will be eligible for a performance payment as described in s. 1.11.6. of RFP #CFB00144. DCF will pay the WPR Performance payment quarterly. See the schedule identified in the Claim and Payments Calendar 2014: http://dcf.wisconsin.gov/w2/pdf/claims_payment_calendar_2014.pdf

DCF will determine the W-2 Contractor's quarterly Federal All Families Work Participation Rate according to TANF guidelines. The W-2 Contractor is not required to submit a verified claim to be paid a WPR quarterly performance payment. No payments will be made for any quarter in which the W-2 Contractor does not meet the 50% level.

In its sole discretion, DCF may at the end of the federal reporting year make a payment to the W-2 Contractor of previously unearned Quarterly Performance Payments if the W-2 Contractor meets the Federal All Families Work Participation Rate of 50% for the year.

b) Work Participation Rate Improvement

Contractor may earn an incentive payment for improving its work participation rate from one quarter to the next. To be considered for the improvement incentive payments contractors' WPR must be at least 35%. The baseline from which improvement will be measured will be either 35 % or the contractor's highest quarterly WPR achieved in 2013 and 2014.

The percent improvement required to earn this incentive is detailed below.

WPR Baseline	Improvement Percentage
35% - 39%	3.15%
40% - 44%	2.90%
45% - 49%	2.65%
50% - 54%	2.40%
55% - 59%	2.15%
60% - 64%	1.90%
65% - 69%	1.65%
70% - 74%	1.40%
75% - 79%	1.15%
80% - 84%	0.90%
85% - 89%	0.65%
90% - 94%	0.40%
95% - 100%	0.15%

c) Contractor Performance Rates Incentive Payments

DCF will pay a onetime Performance Rate Incentive Payment to the contractor who has the highest performance rate in either balance of state

or Milwaukee for any one or more of the following: Job Attainment, Job Retention or Long Term Participant Job Attainment. A payment will be made to the contractors in the balance of state with the highest rate for one or more categories among all balance of state Contractors based on 2014 performance. . A payment will be made to the contractors in in Milwaukee with the highest rate for one or more categories among all Milwaukee Contractors based on 2014 performance.

i. Job Attainment Performance Rate

DCF will calculate this rate using the unduplicated annual case count total in the denominator and total job attainments for the year in the numerator.

ii. Job Retention Performance Rate

DCF will calculate this rate using the unduplicated annual case count total in the denominator and total job retentions for the year in the numerator.

iii. Long Term Participant Attainment Performance Rate

DCF will calculate this rate using the long term participant pool in the denominator and long term participant job attainments for the year in the numerator.

4. Recovery of Disallowances

A disallowance of any payments made under Appendix XX.A.1.-3. will be recovered by DCF if a paid claim is determined to be ineligible regardless of any intent or lack of intent to obtain an ineligible payment by the W-2 contractor or its employees, agents, or subcontractors. DCF may review information and documentation in CARES, in the program participants' electronic case files, or in any other records or information available to DCF at any time during the term of this contract, including any extensions of this contract, and may offset or recover any ineligible payments made to the W-2 Contractor at any time after the start of the contract.

DCF may disallow capitation payments and deduct disallowed capitation payments from future capitation, performance outcome, or WPR quarterly performance payments to the W-2 Contractor if DCF determines the W-2 Contractor has failed to close or has opened a W-2 case for an ineligible family and has received a capitation payment for that ineligible family. DCF may review participant eligibility for this purpose at any time during the term of this contract, including any extensions of this contract, and may offset or recover any capitation payments made to the W-2 Contractor for ineligible families back to the start of the contract.

DCF may disallow performance outcome payments and deduct disallowed performance outcome payments from future capitation, performance outcome or WPR quarterly performance payments to the W-2 Contractor if DCF determines the W-2 Contractor has failed to meet the requirements of the performance outcome as described in Section A.2.a-f of this Appendix. DCF may review claims for this purpose at any time during the term of this contract, including any extensions of this contract, and may offset or recover any performance outcome payments made to the W-2 Contractor for ineligible families back to the start of the contract.

For cost reimbursements, DCF may disallow any payment under this contract and deduct that disallowed payment from any future payments made by DCF to the W-2 Contractor if DCF determines the W-2 Contractor has received a payment that does not meet the requirements in Section A of this Appendix.

DCF will generate a monthly report in WEBI which will identify all claims submitted, denied, and paid in that month. The identification of a claim as paid or as not denied in that WEBI report shall not limit DCF's right under this section to disallow a claim that has been reported as paid in any prior month.

DCF may disallow any quarterly incentive payment for attainment of the Work Participation Rate of 50% or improvement of the work participation rate for the geographical area. DCF may deduct disallowed WPR quarterly incentive payments from future capitation, performance outcome or WPR quarterly performance payments to the W-2 contractor if DCF determines the W-2 Contractor has failed to meet the requirements of the performance outcome as described in Section A.4. of this Appendix. DCF may review claims for this purpose at any time during the term of this contract, including any extensions of this contract, and may offset or recover any quarterly performance payments made to the W-2 Contractor for ineligible families back to the start of the contract.

5. Denied Claims

If DCF determines that a claim is ineligible prior to payment, it will deny the claim and will not pay the W-2 Contractor for such denied claim. Disputes between the Parties regarding a denied claim may be resolved through the dispute resolution process in Section XIII of this Contract.

6. Claims and Capitation Amounts Withdrawn by the W-2 Contractor after payment

If for any reason the W-2 Contractor withdraws a paid claim, DCF will deduct the amount of the paid claim from a future payment amount. The W-2 Contractor may also withdraw a previously paid capitation amount by submitting a request for adjustment to DCF. DCF will deduct the withdrawn capitation amount from a future payment to the W-2 Contractor.

B. Informational Reporting of Expenses

The W-2 contractor is responsible for comprehensive expense reporting to DCF for all allowable costs associated with this contract to enable DCF to comply with federal TANF cost reporting requirements. Such cost reporting by subgrantees of the State is necessary to enable the DCF to meet federal requirements for receiving TANF funding. Costs for all expenses of W-2 and related programs shall be reported to the CORE fiscal reporting system in a complete and timely manner for the W-2 Contractor to qualify for payments. The W-2 Contractor shall report expenses as specified in the CORE reporting instructions. Upon submission of complete and timely CORE expense reports, payments will be made to the W-2 Contractor on a monthly basis except for reimbursement of Emergency Assistance payments which may be billed through CORE twice a month.

The W-2 Contractor is not responsible for reporting W-2 participant benefit payments issued directly from the State, however all program expenses incurred by the W-2 Contractor for operating the W-2 and related program shall be reported to CORE for Federal reporting purposes and shall be consistent with the DCF Allowable Cost Policy Manual

(http://dcf.wisconsin.gov/contractsgrants/pdf/allowable_cost_manual.pdf) and applicable federal allowable cost/expense policies. Program expenditures and descriptions of allowable expenses are further described in 2 CFR Part 230 (formerly OMB Circular A-122), 48 CFR Part 31, or the program policy manual. Federal Allowable Cost Guidance for non-profit agencies:

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr230_main_02.tpl Federal Allowable Cost Guidance for for-profit agencies:

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl

CORE reports shall be submitted by 4:30 pm on the first Friday of the month that follows a full calendar business week. See the schedule identified in the Claim and Payments Calendar 2014: http://dcf.wisconsin.gov/w2/pdf/claims_payment_calendar_2014.pdf

Monthly payments for capitation and performance outcomes and quarterly performance payments for meeting the TANF work participation rate will not be deposited into the W-2 Contractor's account until required CORE reports have been submitted. The W-2 Contractor will return to DCF any funds paid in excess of the allowable costs of services provided under this agreement within 30 days of notification by DCF.

C. Payment Terms for Allowable Cost Based Payments

1. Cost Reimbursement

After receiving reporting of Contractor expenses, DCF will reimburse the W-2 Contractor through cost reimbursement payments for the following program components: (1) Expenditures for Emergency Assistance Payments; (2) Administration of Refugee Cash Assistance and Medical Assistance; (3) Refugee Cash Assistance payments, funded by the Office of Refugee Resettlement; (4) Contracted Child Care and (5) subsidized wages and associated payroll and insurance taxes for individuals in the Trial Employment Match Program (TEMP) placement. Payments will be made according to expense reports submitted to CORE. DCF will make ACH payments one time per month following the schedule identified in the Claim and Payments Calendar 2014, except for

- Emergency Assistance Payments: Payments will be made on an as requested basis at a maximum of twice monthly. Expense reports for Emergency Assistance payment reimbursement are due by 4:30 pm. CST on the 1st and 3rd Friday of the month. Payments will be generated the following (2nd and 4th) Friday of the month. Claims may be submitted after the last calendar day of the month but will be applied to the next month.

Claims shall be submitted electronically to

DCFDESFinanceGrants@wisconsin.gov pursuant to the requirements of DCF's reporting system. The electronic expenditure report form is available at <http://dwd.wisconsin.gov/core/forms.htm>

2. Cost / Expenditure Report

The W-2 Contractor shall submit the CORE Expenditure Report to DCF by close of business (4:30 pm CT) per the Claim and Payments Calendar 2014: http://dcf.wisconsin.gov/w2/pdf/claims_payment_calendar_2014.pdf. Payments will be subject to reduction, recovery, and reimbursement as provided in this Contract. Late reports will be processed in the next month's payment cycle

3. Complete Cost / Expenditure

DCF will not pay if CORE Expenditure Reports are incomplete or lack documentation. Reports that do not contain all required information will be

returned to the W-2 Contractor to be completed and resubmitted. Resubmitted claims will be paid with the next regular payment cycle. It is important to fill in all fields, with the CORE Agency Number and the Reporting Period.

4. Final Expenditure Report

The W-2 Contractor shall submit all CORE expenditure reports under this Contract to DCF within 90 calendar days of the end of the period as specified. Expenses or claims incurred within the Contract period and reported later than 90 days will not be recognized, allowed or reimbursed under the terms of this Agreement.

5. Excess / Overpayments

The W-2 Contractor will return to DCF any funds paid in excess of the allowable reimbursable costs of services provided under this agreement within 30 days of notification by DCF. Allowable reimbursable costs are defined by the DCF Allowable Cost Policy Manual (http://dcf.wisconsin.gov/contractsgrants/pdf/allowable_cost_manual.pdf) and applicable federal allowable cost/expense policies. Program expenditures and descriptions of allowable expenses are further described in 2 CFR Part 230 (formerly OMB Circular A-122), or 48 CFR Part 31.

Federal Allowable Cost Guidance for non-profit agencies:

[http://ecfr.gpoaccess.gov/cgi/t/text/text-](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr230_main_02.tpl)

[idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr230_main_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr230_main_02.tpl) Federal Allowable Cost

Guidance for for-profit agencies: [http://ecfr.gpoaccess.gov/cgi/t/text/text-](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl)

[idx?c=ecfr&tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl)

If the W-2 Contractor fails to return funds paid in excess of the allowable costs of the services provided, DCF may recover any funds paid in excess of the conditions of this agreement from subsequent payments or may recover such funds by any legal means.

D. Additional Payment Terms

1. Advance Payments and Start-up Funds CORE Reports

No advanced payments or start-up funds are available for any portion of this contract. However, the W-2 Contractor shall submit a CORE Expenditure Report identifying their start-up or transition costs to DCF within 90 days of the start of this contract.

2. Automated Clearing House (ACH)

DCF requires all grants to be paid through an Automated Clearing House (ACH) direct deposit. ACH payments will be deposited into the Contractor's account according to the contract terms. To begin receiving ACH payment, complete the

ACH Set-up form available on line, sign and submit to the address on the form.
<http://dwd.wisconsin.gov/core/forms.htm>.

3. Limits on Total Payments

Total net payment to the W-2 Contractor for allowable program expenses incurred, quarterly performance payments, capitation payments and approved performance outcome claims shall not exceed the contracted amounts specified in this Contract.

Net payments under this contract may be adjusted for other amounts owed DCF.

Net payments are the total of all monthly claims for the capitation payment under section 5.A.1., valid claims for performance outcomes under V.A.2., claims for WPR quarterly performance payments under section V.A.4 and claims for allowable cost reimbursement under section V.C. minus the following; denied capitation and performance outcome payments under V.A.6., and W-2 Contractor withdrawn claims under V.A.7.

DCF may also reduce payments pursuant to state or federal audits.

E. Withholding, Deduction/Reduction, Penalties and Recovery of Funds

DCF shall have the right to withhold deduct, reduce, and/or recover payments due under the terms of the Contract if the W-2 Contractor fails to provide services consistent with this Contract or if any reported costs are disallowed, either by DCF or in a federal audit; if the W-2 Contractor submits a claim for a payment that it did not earn; or if DCF reasonably determines it to be necessary to protect DCF against losses or liabilities, including federal disallowances or sanctions. DCF may recover payments pursuant to state or federal audits.

1. Withholding

The payments to be withheld will be in an amount DCF determines necessary to cause the W-2 Contractor to correct its failures, or to protect DCF against potential losses or liabilities, and such amount will be withheld until the failure to provide the services or meet the Contract provision is cured or until the potential loss or liability ceases. DCF will withhold funds pursuant to this subsection only after DCF has given notice to withhold funds.

2. Deduction/Reduction of Funds

DCF makes payments only for services that are actually provided and that meet the terms and conditions of this Contract. Therefore, DCF shall have the right to deduct the amounts being withheld from its financial obligations to the

W-2 Contractor if, at the end of the Contract term, the W-2 Contractor has not yet cured its failures or caused the potential losses or liabilities to cease. In addition, DCF shall have the right to deduct amounts equal to an amount imposed against DCF as a Federal disallowance or sanction that is attributable to the W-2 Contractor's performance or failure to perform.

DCF shall have the right to deduct any amounts due DCF from the W-2 Contractor from money otherwise payable to the W-2 Contractor for any other reason specifically provided under this Contract.

3. Penalties

The W-2 Contractor shall be subject to financial penalty if the W-2 Contractor fails to implement all requirements under the W-2 and Related Programs Contract. There will be two types of penalties under this contract:

a) Non-Compliance

Non-compliance of the contract requirements may be discovered via monitoring, quality assurance reviews or other means, whereby DCF finds a W-2 Contractor in default of one or more of the contract requirements or Scope of Work.

The Parties hereby agree that damages will be difficult to calculate. Accordingly, a penalty will be applied when the W-2 Contractor knew or should have known that the failure was not in compliance with a Contract requirement due to factors within its control. The W-2 Contractor shall know the failure was not in compliance with a Contract requirement because the failure was egregious or intentional, or DCF had previously communicated the failure through a letter, Action Plan or Corrective Action Plan. Upon DCF's finding of non-compliance, a penalty shall be assessed in the amount up to Five Thousand Dollars (\$5,000) per violation or participant whom the W-2 Contractor has failed to properly serve in the amount up to Five Thousand Dollars (\$5,000) per day that the W-2 Contractor has failed to take action after receiving the initial written notification of the failure. Non-compliance penalties shall result in fines to be paid from non-W-2 funds.

b) False Reporting

Discovery of claims for performance outcome payments that the W-2 Contractor knew or should have known did not qualify for a payment will result in recoupment of W-2 funds previously paid.

Upon DCF's finding of such a false claim, a penalty shall be assessed in the amount up to Five Thousand Dollars (\$5,000) per violation. False reporting penalties shall result in fines to be paid from non W-2 Funds.

4. Recovery of Funds

DCF reserves the right to recover funds that are owed by either:

- a) Requesting immediate repayment from the W-2 Contractor, or
- b) Reducing future disbursements to the W-2 Contractor by an amount equal to what is owed. DCF may adjust subsequent claims for reimbursement by any audit exception or non-compliance exception up to the amount of the exception.

5. Payment Adjustments

Depending upon the severity of the nonperformance, identified during the monitoring and compliance review (section XII of this contract), and the penalty assessed, the Parties agree to negotiate the timing and payment schedule of any adjustments under this section.

Following written notification of the agreement, DCF will process the adjustment in the month agreed to in CORE.

F. Contractor Liabilities

1. Past Due Government Liabilities

The W-2 Contractor shall notify the DCF in writing, within thirty (30) days of the date payment was due of any past due liabilities to the Federal government, State government or their agents for income tax withholding, FICA, Workers' Compensation, Unemployment Compensation, garnishments or other employee related liabilities, Sales Tax, Income Tax of the W-2 Contractor, or other monies owed. The written notice shall include the amount(s) owed, the reason the monies are owed, the due date, the amount of any penalties or interest, known or estimated, the unit of government to which the monies are owed, the expected payment date and other related information.

2. Past Due Payments to Vendors

The W-2 Contractor shall notify the DCF, in writing, within sixty (60) days of the date payment was due, of any past due payment in excess of five thousand dollars \$5,000, or when total past due liabilities to any one or more vendors exceed ten thousand dollars \$10,000, related to the operation of this Contract for which the DCF has reimbursed or will reimburse the W-2 Contractor. The written notice shall include the amount(s) owed, the reason the monies are owed, the due date, the amount of any penalties or interest, known or estimated, the vendor to which the monies are owed, the expected payment date and other related information. If the liability is in dispute, the written notice shall contain a discussion of facts related to the dispute and information regarding steps being taken by the W-2 Contractor to resolve the dispute.